

REMARKS

The Examiner appears to have intended to reject Claims 1 - 12 under 35 U.S.C. §103 as being unpatentable over Boren (U.S. 5,263,913) in view of Graham (U.S. 4,706,953), although the rejection itself only refers to "Claims 1-". If that interpretation is correct, then reconsideration and withdrawal of the rejection is requested. If, however, the Examiner only meant to reject Claim 1, then reconsideration and withdrawal of that rejection and allowance of the remaining claims is requested.

Adding elastic elements or other resistance elements to the machine of Boren, as suggested by the Examiner, would be contrary to the express teaching of the reference itself, and therefore is not a proper basis for rejection under 35 U.S.C. §103. In that regard, it will be noted that Boren specifically cautions against the use of weights or other resistance for doing squats and recognizes the inability of some people's legs to sustain the full weight of the upper body in doing such exercises. See Col. 1, lines 50 - 52, *et seq.* Boren's solution is to decrease the vertical load due to the upper body weight by, in effect, positioning the person doing squats on an inclined ramp so that the upper body weight does have to be lifted as far vertically as the legs are bent and straightened. Increasing the load with elastic elements would defeat the purpose of Boren's machine.

In addition to being contrary to the teachings of Boren itself, the use of elastic elements in a machine like Boren's is not suggested by Graham or the other references cited by the Examiner. The only motivation for that combination is found in applicant's own disclosure and claims, and it appears that the Examiner has engaged in impermissible hindsight reconstruction in using them as a blueprint for picking and choosing different elements from different references in order to produce the invention.

Claim 1 distinguishes over the teachings of Boren and Graham in calling for a platform, a post extending upwardly from the platform, a carriage which can be moved along the post in upward and downward directions by the exerciser, and a plurality

of elastic elements which can be selectively connected to the carriage to assist or resist movement of the carriage in the upward and downward directions. As noted above, there is no suggestion in either reference of selectively connecting elastic elements to a carriage to assist or resist movement of the carriage in upward and downward directions, and connecting such elements to the slidable platform in Boren would be contrary to the specific teachings of that reference.

Claim 8 distinguishes over the references in calling for a platform for receiving an exerciser, a post extending upwardly from the platform, a carriage which can be moved along the post in upward and downward directions by the exerciser, horizontally extending arms affixed to the post above and below the carriage, and a plurality of elastic elements which can be selectively connected between the carriage and the arms to assist or resist movement of the carriage in the upward and downward directions. This combination of elements is neither found in nor suggested by the references.

Claim 10 distinguishes over the references in calling for a base including a platform formed in two sections which are hinged together for movement between an operational position and a storage position, a post extending from the platform, a carriage which can be moved along the post by an exerciser, a plurality of elastic elements which can be selectively connected to the carriage to assist or resist movement of the carriage along the post, and wheels attached to the base for use in moving the machine about. Here again, the combination of element set forth in the claim is neither found in nor suggested by the references.

Claims 2 - 7, 9 and 11 - 12 depend from Claims 1, 8 and 10, and are directed to patentable subject matter for the same reasons as their parent claim. In addition, they call for other elements and features which are not found in the references.

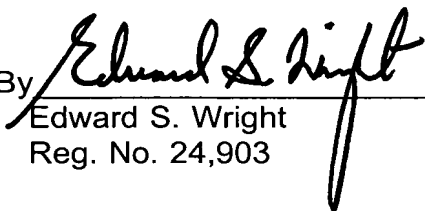
In order to more fully round out the protection to which applicant is believed to be entitled, a new Claim 13 is being added. This claim depends from Claim 1 and further distinguishes over the references in specifying that the platform is adapted to

rest on a horizontally extending supporting surface, and that the post is supported by the platform.

With this amendment, it is respectfully submitted that all of the claims in the application (Claims 1 - 13) are directed to patentable subject matter and that the application is in condition for allowance.

The Commissioner is authorized to charge any fees required in this matter, including extension fees, to Deposit Account 50-2319, Order No. A-70737/ESW.

Respectfully submitted,

By 
Edward S. Wright
Reg. No. 24,903

(650) 494-8700